IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 3508 of 2005

Between:

Md. Hafeesuddin, S/o. Late Jamaluddin,
E.NO. 110344, R/o. 18-7/425, Bhavani Nagasr,

Street No. 11, Siddiquagam, Hyderabad.

..... PETITIONER

AND

1 APSRTC, rep by its Divisional Manager,

Sangareddy, Medak District.
2 APSRTC, rep by its Depot Manager,

Bus Depot, Medak , Medak District.
3 APSRTC, rep by its Depot Manager,

Bus Depot, Flaknuma, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or direction particularly one in the nature of WRIT OF MANDAMUS, declaring the action of 2nd respondent in imposing the punishment of deferring increments for a period of (2) years with cumulative effect vide impugned Proceedings No. M1/2(4)96-MDK dated 22-9-1997 as confirmed by the 1st respondent vide Proc. No. PA/25(7)/01-DVM-SRD dated 17-4-2003 as illegal arbitrary, and in violation of Art. 14, 16 & 21 of the constitution of India, and consequently direct the respondents to restore the deferred increments along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following :

ORDER:

The petitioner is working as a Driver in the respondent-Corporation. He was issued a charge sheet for certain misconduct and after receiving the explanation of the petitioner; final orders were passed imposing the penalty of deferring annual increments with cumulative effect for two years. The petitioner questions the order on the ground that though the reduction of annual increment with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the Rules. Therefore, the order is illegal and it is liable to be set aside.

The learned counsel for the petitioner relied on the judgment of the Supreme Court in ***Kulwant Singh Gill Vs. State of Punjab*** wherein the Supreme Court held that since the punishment imposed on the petitioner therein is a major punishment, the order cannot be sustained without an enquiry. The petitioner, therefore, seeks to declare that the impugned order is illegal and is liable to be set aside.

In view of the judgment of the Supreme Court in ***Kulwant Singh Gill's*** case (1 supra), I am of the view, having regard to the nature of misconduct that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two annual increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the expiry of the two years period. But, he is entitled to get increment on notional calculation from the date of the next increment after the expiry of the two years period to which he is entitled, as he has been imposed penalty of

reduction of two annual increments without cumulative effect.

The writ petition is accordingly disposed of with the above observations.

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25-02-2005

vs

To

1 APSRTC, rep by its Divisional Manager,

Sangareddy, Medak District.
2 APSRTC, rep by its Depot Manager,

Bus Depot, Medak , Medak District.
3 APSRTC, rep by its Depot Manager,

Bus Depot, Flaknuma, Hyderabad.

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THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 3508 of 2005

Dated: 25-02-2005

vs